



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: May 13, 2004

Item 3 -- Adoption of SMGB Internal Policy for Validating and Accepting Professionally Prepared Reports and Other Documents Submitted to the SMGB for Consideration.

BACKGROUND: This internal SMGB policy was presented at the SMGB's March 12, 2004, regular business meeting by Board Member Robert Tepel, and reviewed at the SMGB's April 15, 2004, meeting. At the SMGB's request, this policy issue was placed on the Agenda for adoption at this meeting.

SIGNING, STAMPING, AND DATING OF REPORTS AND DOCUMENTS.

Policy:

Professional reports, documents, calculations, plans, specifications, maps, cross sections, boring or trench logs, and diagrams (*documents* hereafter) which must, under applicable law, regulation, or code, be prepared by or under the supervision of licensed professionals will not be accepted or considered by the State Mining and Geology Board (Board) unless at least one copy of the document bears an original signature, stamp impression or seal, and date affixed by the author in accordance with applicable law and regulation.

Unless otherwise directed or agreed in advance, all professionally prepared documents included in Board, or Board committee, meeting packages or presented to the Board in a meeting are to be in final form and must be signed, stamped or sealed, and dated in accordance with applicable law and regulation.

Reason:

As a quasi-judicial body operating in the public trust, the Board must have confidence that documents submitted to it are complete and genuine, and have been prepared by or under the supervision of licensed professionals if and as required by law and regulation. The Board cannot rely on documents that lack the original signature and stamp impression or seal of the responsible author(s). The Board could make an incorrectly substantiated decision, and may be subject to challenge, if it relies on unsigned and unstamped documents, or incomplete documents, or if it accepts facsimile or reproduced signatures or stamp images on documents without having a matching signed and stamped or sealed, and dated original in its files.

EXECUTIVE OFFICER'S REPORT

Application:

This policy applies to all documents presented to the Board for its information, consideration, acceptance, or action that are required by law, regulation or code to be prepared by or under the supervision of licensed professionals. The licensed professional authors include, but are not limited to, engineers, land surveyors, architects, landscape architects, geologists, geophysicists, foresters, and accountants. The Board may, at its option, evaluate and consider professional documents that lack the original signature, stamp impression, or seal, or date affixed by the author. It is expected that this situation will arise in the case of older documents rather than current documents.

Implementation:

The Executive Officer shall implement this policy by:

1. Advising all parties that the Executive Officer notifies in writing of the presence of an item of interest to them on a Board Agenda that any report or document that they or their agents submit to the Board must conform to statutory and regulatory requirements for the inclusion of an original signature, stamp impression or seal, and date applied by the responsible professional(s).
2. Advising all parties that the Executive Officer notifies in writing of an Order or Notice from the Board applying to them that any report or document that they or their agents submit to the Board in response to such Order or Notice must conform to statutory and regulatory requirements for the inclusion of an original signature, stamp impression or seal, and date applied by the responsible professional.
3. If more than one copy of a document is submitted to the Board, only one copy must bear the original signature, stamp impression or seal, and date applied by the responsible professional. The Executive Officer will verify that all other copies are true and correct copies of the signed original before distributing them to Board members, staff, or other parties.
4. One copy of any document submitted in response to an agenda item or Board Notice or Order that bears the original signature, stamp impression or seal, and date signed by the responsible professional will be filed as part of the Board's permanent records.
5. If a party or agent submitting a document for Board consideration states that no copy of the document is available that bears the original signature, stamp or seal, and date of the author, the Executive Officer shall request the party or agent to obtain a complete copy from the author, bearing the original signature, stamp or seal, and date, as required by law or regulation. The Executive Officer may also request verification that a document is

a true and correct copy by direct communication with the author. In the event that a copy of the document bearing an original signature, stamp impression or seal, and date affixed by the author can not be made available, the Executive Officer shall report the circumstances to the Board.

6. The Executive Officer may develop a standard advisory statement to be attached as appropriate to letters or notices to inform the recipients of this Board policy.
7. The Executive Officer shall report to the Board at the earliest reasonable time any instances of possible fraud, forgery, lack of completeness, or impropriety with respect to professional documents submitted to the Board, and request the Board's direction.

The Board will implement this internal policy by:

1. Seeking clarification if any report or document presented to it that appears to be, or to have the potential to be, improperly or not signed or stamped, or fraudulent, or misleading, or incomplete.
2. Acting promptly on any report from the Executive Officer that calls the Board's attention to any instance of possible fraud, forgery, or other impropriety, or lack of completeness with respect to professional documents submitted to the Board office.
3. Requiring the Executive Officer to report periodically on the implementation of this policy.
4. Other considerations not overriding, the Board may immediately postpone any business or hearing before it if it should become apparent, in the judgment of the Chair based on consultation with the Executive Officer and the Board's Legal Counsel, that some part of the evidence or documentary record before the Board lacks or may lack conformance with applicable law or regulation as to requirements for the signature, stamp or seal, and date applied by a licensed professional; or, the Board may agree to disregard such evidence in its deliberations.

APPENDIX – EXAMPLES OF APPLICABLE LAWS AND REGULATIONS

PROFESSIONAL ENGINEERS ACT

Business and Professions Code, §§ 6700-6799 (emphasis added as bold italic)

6735. Preparation, signing, and sealing of civil engineering documents

(a) All civil (including structural and geotechnical) engineering plans, calculations, specifications, and reports (hereinafter referred to as "documents") shall be prepared by, or under the responsible charge of, a registered civil engineer and shall include his or her name

EXECUTIVE OFFICER'S REPORT

and license number. Interim documents shall include a notation as to the intended purpose of the document, such as "preliminary," "not for construction," "for plan check only," or "for review only." All civil engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the certificate or authority. ***All final civil engineering calculations and reports shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the certificate or authority.*** If civil engineering plans are required to be signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate or authority shall appear on each sheet of the plans. If civil engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate or authority shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

RULES OF BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Title 16, California Code of Regulations, §§ 400-474.5

461. Testing Laboratory Reports.

Reports issued by Testing Laboratories shall be prepared by or under the supervision of a licensed civil, electrical, or mechanical engineer as appropriate and signed or sealed by him/her whenever such reports go beyond the tabulation of test data (composition of material, breaking stress, etcetera) and proceeds to:

(a) Interpret the data to draw conclusions as to the characteristics of civil engineering structure, an electrical or mechanical device, or parts thereof.

(b) Express civil, electrical, or mechanical engineering judgment in the form of recommendations derived from the results of the test.

(c) Perform design work in the preparation of plans, specifications, and other instruments requiring licensure as a civil, electrical, and/or mechanical engineer.

GEOLOGISTS AND GEOPHYSICISTS ACT,

Business and Professions Code, Chapter 12.5, §§ 7835, 7835.1, and 7836

7835. Required Preparation of Plans by Registered Geologist - Signing or Stamping with Seal. All geologic plans, specifications, reports or documents shall be prepared by a registered geologist, or registered certified specialty geologist, or by a subordinate employee under his direction. In addition, they shall be signed by such registered geologist, or registered certified specialty geologist or stamped with his seal, either of which shall indicate his responsibility for them.

7835.1. Required Preparation of Plans by Registered Geophysicist - Signing or Stamping with Seal. All geophysical plans, specifications, reports or documents shall be prepared by a registered geophysicist, registered certified specialty geophysicist, registered geologist, registered certified specialty geologist, or by a subordinate employee under his direction. In addition, they shall be signed by such registered geophysicist, registered certified specialty geophysicist, registered geologist, or registered certified specialty geologist, or stamped with his seal, either of which shall indicate his responsibility for them.

ACCOUNTANCY ACT

Business and Professions Code

5536.1. (a) All persons preparing or being in responsible control of plans, specifications, and instruments of service for others shall sign those plans, specifications, and instruments of service and all contracts therefore, and if licensed under this chapter shall affix a stamp, which complies with subdivision (b), to those plans, specifications, and instruments of service, as evidence of the person's responsibility for those documents. Failure of any person to comply with this subdivision is a misdemeanor punishable as provided in Section 5536. This section shall not apply to employees of persons licensed under this chapter while acting within the course of their employment.

(b) For the purposes of this chapter, any stamp used by any architect licensed under this chapter shall be of a design authorized by the board which shall at a minimum bear the licensee's name, his or her license number, the legend "licensed architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

LANDSCAPE ARCHITECT

Business and Professions Code

5659. Each person licensed under this chapter shall sign and date all plans, specifications, and other instruments of service and contracts therefore, prepared for others. In addition to the signature and date, all final landscape architectural plans, specifications, and other instruments of service and contracts therefore shall bear the landscape architect's license number and the renewal date of his or her license. Failure to comply with this section constitutes a ground for disciplinary action. Each person licensed under this chapter may, upon licensure, obtain a stamp of the design authorized by the board, bearing his or her name, license number, the renewal date of the license and the legend "landscape architect" and the legend "State of California."

REGISTERED PROFESSIONAL FORESTER
Forestry Act, Public Resources Code

752. (a) "Professional forester," as used in this article, means a person who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and experience, performs services, including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forestry activities when those and techniques.

(b) A professional forester is licensed to perform forestry services only in those areas of expertise in which the person is fully competent as a result of training or experience. In order for a professional forester to fulfill all of his or her responsibilities with regard to a particular activity on a site, if the expertise that is prudently required exceeds the expertise possessed by the professional forester in that regard, the professional forester may need to utilize the services of other qualified experts, including, but not limited to, archaeologists, botanists, civil engineers, ecologists, fisheries biologists, geologists, hydrologists, land surveyors, landscape architects, range scientists, soil scientists, or wildlife biologists. Nothing in this article shall preclude those other environmental professionals from the application of their knowledge in their field of expertise outside the practice of forestry, as defined in Section 753.

EXECUTIVE OFFICER'S RECOMMENDATION: The Executive Officer recommends that the SMGB adopt Resolution 2004-04 adopting an internal policy for the SMGB regarding professionally prepared reports and documents for SMGB consideration.

SUGGESTED MOTION LANGUAGE:

To adopt Resolution 2004-04:

Mr. Chairman, in light of the information before the SMGB today, I move that the SMGB adopt Resolution 2004-04 providing for an Internal Policy for Validating and Accepting Professionally Prepared Reports and Other Documents Submitted for Consideration to this board, and that the requirements of this policy be implemented immediately.